



Appeal Decision

Site visit made on 28 July 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Appeal Ref: APP/E2530/W/20/3249740

5 Baston Outgang Road, Baston PE6 9PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Andrew Freeman against the decision of South Kesteven District Council.
 - The application Ref S19/1270, dated 12 July 2019, was refused by notice dated 3 October 2019.
 - The development proposed is described as 'alterations and change of use of kennel building to 4 bedroom bungalow'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I noted on my site visit that works have already commenced. For the purposes of my assessment the development is therefore retrospective.
3. Notwithstanding the description of the development given on the application forms, a previous appeal decision¹ at the site found amongst other things that construction works carried out have involved the erection of a new building rather than the alteration of an existing building. From the evidence before me and my own observations on site, I concur with this finding. Therefore, I have considered this appeal on the basis of the more accurate revised description included in the Council's decision notice which states 'Erection of a 4 bedroom bungalow'.
4. The Council's decision notice referred to policies in the South Kesteven Core Strategy and the South Kesteven Draft Submission Local Plan. These policies have been superseded and the development plan now consists of the South Kesteven District Council Local Plan (LP) which was adopted in January 2020. I have therefore assessed the proposal against the policies of the LP.

Main Issue

5. The main issue is whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy.

¹ Appeal refs APP/E2530/C/17/3175012 & 3175013

Reasons

6. Policy SP1 (Spatial Strategy) of the LP sets out amongst other things that decisions on the location and scale of new development, will be taken on the basis of the 'Settlement Hierarchy' in Policy SP2 of the LP. The site is set away rather than at the edge of the nearest village at Baston and is distinctly within the countryside. Accordingly, it does not fall within the areas identified to address the District's growth needs set out in the settlement hierarchy.
7. The sub-text to Policy SP1 confirms that development proposals in the open countryside, which as in this case do not meet the criteria in Policy SP4 (Development on the Edge of Settlements) of the LP, will be restricted unless exceptional circumstances apply as outlined in Policy SP5 (Development in the Open Countryside) of the LP. The purpose for this is to ensure that development is located in the most sustainable and suitable locations. This is consistent with the sustainability aims of the National Planning Policy Framework (2019) (the Framework).
8. Policy SP5 confirms that development in the open countryside will be limited to that which has an essential need to be located outside of the existing built form of a settlement. For strategic reasons, a new build dwelling in the countryside is not essential and the proposal would not meet any of the development types supported by Policy SP5.
9. As to whether the site is 'isolated', my attention has been drawn to judgements of the High Court and Court of Appeal². With reference to paragraph 55 of the Framework³, it was found that "...the word 'isolated' in the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement". It goes on to say that whether a proposed new dwelling is 'isolated' or not, and whether in a particular case a group of dwellings constitutes a settlement for the purposes of the policy, are deemed to be matters of fact and planning judgement for the decision-maker. The site is physically and visually divorced from the village of Baston. The position of the site next to two existing dwellings and close to other land uses in the countryside do not convince me that it sits within a recognisable settlement, village or hamlet. Accordingly, I find the site is isolated in the terms described in the Framework.
10. The site is accessed off a section of road where the national speed limit applies, with no footpath or street lighting. These factors mean that the site would not encourage walking or cycling to Baston. This would be particularly the case during periods of inclement weather or during winter months where hours of daylight are reduced. Furthermore, there is nothing before me to indicate that there is more than a basic level of services and facilities within Baston. Taking these factors into account, occupants would be likely to rely on the private motor vehicle for access to a greater range of day-to-day facilities. The development would conflict with the Framework insofar as it seeks to actively manage patterns of growth and support opportunities to promote the use of walking, cycling and public transport.

² Braintree District Council v SSCLG, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin) and Braintree District Council v SSCLG, Greyread Ltd & Granville Developments [2018] EWCA Civ 610

³ Now paragraph 79 of the revised Framework (February 2019)

11. I conclude that the development would not be in a suitable location having regard to the sustainable development aims of Policies SP1, SP2 and SP5 of the LP and the Framework.

Other Considerations

12. My attention has been drawn to a previous appeal relating to the conversion of a neighbouring building to a dwelling. In that particular instance, the Inspector noted the development plan at that time was not entirely consistent with Paragraph 79 of the Framework, which includes, amongst its exceptions for isolated homes in the countryside, development which re-uses redundant or disused buildings and leads to an enhancement of the immediate setting. As set out in my procedural note, the appeal proposal relates to a new building and therefore does not meet this or any of the other exceptions set out in the development plan or the Framework.
13. The appellant has provided a draft unilateral undertaking (UU) which sets out that prior to any works being undertaken steps would be taken to permanently cease the residential use of 2 other units on separate land. The buildings subject to the UU are set well away from the appeal site and there is no substantive evidence before me to persuade me that they are lawful in their own right. For these reasons, I am not persuaded that they are directly related to the development nor that their removal would make the development acceptable in planning terms. Therefore, the UU would not meet the requirements of Paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Regulations 2010 (CIL Regulations). Furthermore, the UU is not signed or dated which further diminishes the weight I can apply to this matter.
14. Policy SD1 (The Principles of Sustainable Development in South Kesteven) includes amongst other things that development proposals shall actively encourage, as appropriate, the use of previously developed land, conversions or the redevelopment of vacant or unutilised land or buildings within settlements. This is consistent with paragraph 118 of the Framework which also gives substantial weight to the use of suitable brownfield land within settlements. However, I have already found that the site does not form part of a recognisable settlement. I therefore only attach limited weight to the redevelopment of the site in this particular instance.
15. I am not persuaded that an increased domestic presence in the countryside would improve the prevailing rural character and appearance of the area. Even if there were no harm to biodiversity, this would be of neutral consequence in the planning balance. In terms of any drainage improvements and reductions in vehicular movements when compared with the previous situation, any benefits would be likely to be limited.

Planning Balance and Conclusion

16. Paragraph 12 of the Framework confirms amongst other things that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan permission should not usually be granted.
17. The development would make a limited contribution towards the Council's housing requirements. However, a new dwelling in this location would conflict

with the sustainable development aims of the LP and the Framework. This is a matter which attracts significant weight and tips the balance firmly against the proposal.

18. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the development plan. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR